

Comments to the Renewables Committee of the California Energy Commission

**In the Matter of:
Renewables Portfolio Standard Eligibility Guidebook
Publication Number 500-04-002F**

**Docket No. 03-RPS-1078
RPS Proceeding**

May 27, 2004

**Rachel E. McMahon
Center for Energy Efficiency and Renewable Technologies
415.202.0866
415.202.0816 fax
rachel@ceert.org**

The Center for Energy Efficiency and Renewable Technologies (CEERT) offers these comments in regard to the recent revisions to the Renewables Portfolio Standard Eligibility Guidebook, publication #500-04-002F (guidebook). We regret the lateness in submitting these comments, and hope that they may serve to inform any future guidebook revisions. These comments deal with two issues: 1) eligibility of hybrid (25% natural gas) systems for the RPS, and 2) restrictions on out-of-state renewables for RPS eligibility.

Hybrid Systems

The May 19th revisions to the guidebook would allow QFs that operate using up to 25% natural gas to be eligible for RPS credit for 100% of the output. While CEERT appreciates the contribution of hybrid renewable/gas systems to air quality goals and decreasing gas dependence, we do not believe that the RPS law was intended to benefit (via RPS qualification or SEPs) gas generation of any kind, be it in conjunction with renewable generation or alone. Further, the interaction with this revision with the renewable energy credit (REC) decisions currently in play in the legislature¹ and at the California Public Utilities Commission² does not appear to have been considered. A REC is intended to represent all of the environmental attributes associated with the production of

¹ SB 1478 (Sher), currently on the Senate Floor.

² R.01-10-024 and R.04-04-026 – Standard Contract Terms and Conditions.

renewable energy. It would be fundamentally inappropriate to assume those same benefits for natural gas, as gas is the very fuel that the RPS and its accompanying components seek to displace.

We are concerned that this change establishes an unintended precedent and are not clear as to the reason(s) that the Renewables Committee adopted this revision. CEERT agrees with the earlier version of the guidebook, which would have only permitted eligibility of the renewable portion of hybrid systems for RPS targets and SEPs. We respectfully urge the Committee to revisit this change.

SEP Terms

There is a discrepancy in state law, which prohibits the CEC from issuing SEPs for a period of longer than ten years on the one hand³, while, on the other, requires RPS contracts of “no less than 10 years in duration,”⁴ a mandate that has been implemented by the CPUC to require utilities to “seek bids for 10, 15, and 20-year products” in their RPS solicitations.⁵ This apparent disconnect in the law was a topic addressed at the CPUC’s recent “least-cost, best-fit” workshops in its RPS rulemaking.⁶ However, neither CPUC nor CEC staff committed to how or when the matter would be resolved.

Because the issue of SEP awards applied to RPS contracts of greater than ten years has a significant impact on RPS solicitations, bidding, and contract negotiations and terms, this issue must be resolved immediately and prior to the first RPS solicitation, now scheduled for June 30, 2004. Timely resolution is needed to avoid creating uncertainty in the process (e.g., neither bidders nor utilities should have to guess how this issue is going to be resolved either in structuring bids or negotiating contracts) or creating a bias in favor of 10-year contracts only. For this reason, CEERT urges the CEC and CPUC to collaborate immediately to ensure a final determination on this issue before June 30, 2004.

With respect to possible interim solutions, CEERT suggests that one approach would be to base the SEP on the levelized price of the contract over the first ten years, rather on the levelized price over the whole term of the contract. It would be the responsibility of the developer to manage whatever cash flow problems arise. The developer could bank SEP payments that are higher than needed in the first ten years in order to make it through the next five or ten.

³ Public Resources Code §25743(b)(1)(C)

⁴ Public Utilities Code §399.14(a)(4).

⁵ CPUC Decision (D.) 03-06-071, at p. 57.

⁶ Rulemaking (R.) 04-04-026

Out-of-State Restrictions

CEERT is also concerned with the May 19th revisions to the out-of-state eligibility requirements. We are concerned the requirement in the guidebook is unnecessarily restrictive, goes beyond the direction in statute and could have the unintended consequence of inhibiting the delivery of cost-effective renewable power into the state, thereby potentially costing ratepayers more money than is necessary.

The latest version of the guidebook would require that the out-of-state facility:

“b) demonstrates delivery of its generation to the **in-state market hub or the in-state substation** located within the CA ISO control area of the Western Electricity Coordinating Council (WECC) transmission system designated by the IOU”

This is inconsistent with legislative direction adopted in SB 67 (Bowen)⁷:

Public Utilities Code 399.16:

The commission may consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets the criteria described in Section 399.12 and all of the following requirements:

(a) It is located so that it is, or will be, connected to the Western Electricity Coordinating Council (WECC) transmission system.

(b) It is developed with guaranteed contracts to sell its generation, and demonstrates delivery of energy, to a retail seller or the Independent System Operator.

(c) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the State Energy Resources Conservation and Development Commission pursuant to subdivision (b) of Section 399.13.

To count toward RPS targets, the power obviously must be delivered to the purchasing utility, but the utilities receive energy at many hubs, in and out of the geographical boundaries of the state of California. These hubs include COB, Mona, Mead, and Palo Verde. There is no statutory requirement for, nor is there any conceivable benefit inherent in, adding gratuitous congestion to the California grid by requiring power be brought in state when IOUs are willing to accept it outside of the state to bring in themselves. The only requirement should be to deliver to the IOUs, at a point to which the utility or ISO agrees.

⁷ Chapter 731, Statutes of 2003.